

AN ORDINANCE BY COUNCILMEMBER KWANZA HALL**AN ORDINANCE TO WAIVE THE REQUIREMENTS OF SECTION 138-205(d) OF THE CITY OF ATLANTA CODE OF ORDINANCES, THAT WAS IN EFFECT IN DECEMBER 2006, TO REDUCE THE OUTDOOR FESTIVAL PERMIT FEE ON A ONE TIME BASIS TO \$5,000 FOR THE PEACH DROP 2007 OUTDOOR FESTIVAL; AND FOR OTHER PURPOSES.**

WHEREAS, Underground Atlanta holds an annual Outdoor Festival on December 31 of each year, continuing into January 1st of the following year. This Outdoor Festival, known as Peach Drop, culminates in a lowering of a large imitation peach during the countdown to the New Year; and

WHEREAS, Underground Atlanta held its annual Peach Drop Outdoor Festival on December 31, 2006 and January 1, 2007 ("Peach Drop 2007"). Underground Atlanta filed with the City of Atlanta ("City") the requisite Outdoor Festival permit application as required by the Outdoor Festival Ordinance in effect during 2006, Atlanta Code section 138-186 through section 138-209 ("Outdoor Festivals Ordinance"). Though the City has a new ordinance governing outdoor festivals and other outdoor events that replaced the Outdoor Festivals Ordinance, the new ordinance did not take effect until January 2, 2007, and therefore has no bearing on decisions regarding Peach Drop 2007; and

WHEREAS, pursuant to the Outdoor Festivals Ordinance, Peach Drop 2007 was categorized as a Class A Commercial Outdoor Festival, meaning that Underground Atlanta is a commercial enterprise and expected 50,000 or more attendees at Peach Drop 2007; and

WHEREAS, Section 138-205(d) of the Outdoor Festivals Ordinance required that the organizer of a Class A Commercial Outdoor Festival pay a permit fee of \$15,000. Underground Atlanta paid this \$15,000 fee, met all other requirements of the Outdoor Festivals Ordinance, and was granted an Outdoor Festival Permit by the City for Peach Drop 2007; and

WHEREAS, as a condition for granting the Peach Drop 2007 Outdoor Festival Permit, the City required Underground Atlanta to utilize Woodruff Park in addition to the property traditionally utilized for the Peach Drop festivities. This decision was implemented for public safety reasons. Specifically, the State has temporarily closed the Peachtree Street Bridge near Underground Atlanta for construction. The Peachtree Street Bridge is traditionally one of the prime areas from which Peach Drop attendees view the lowering of the peach. The Bridge closure resulted in considerably less viewing area for Peach Drop 2007 patrons, potentially causing overcrowding in the remaining viewing areas. Pursuant to the City's requirement, Underground Atlanta placed a big screen LED Wall in Woodruff Park so that Underground

Atlanta 2007 attendees could view the event from the large screen in the park, thereby reducing the number of people located within viewing distance of the actual peach; and

WHEREAS, the City's requirement regarding the use of Woodruff Park caused Underground Atlanta to bear significant additional expense. To help offset these additional costs, the City wishes to waive, on a one-time basis, the requirements of section 138-205(d) of the Outdoor Festivals Ordinance, such that Underground Atlanta's Outdoor Festival permit fee for Peach Drop 2007 is reduced from \$15,000 to \$5,000.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

Section 1. The provisions of section 138-205(d) of the Outdoor Festivals Ordinance are hereby waived for the one-time, limited purpose of reducing the Outdoor Festival permit fee owed for Peach Drop 2007 from \$15,000 to \$5,000. The basis of this waiver is to partially compensate Underground Atlanta for the significant additional costs incurred as a result of the City's requirement that Underground Atlanta utilize Woodruff Park during Peach Drop 2007. This requirement was implemented because of public safety concerns arising from temporary construction at the Peachtree Street Bridge. The City has already accepted the \$15,000 permit fee from Underground Atlanta, and therefore the permit fee reduction must take the form of a \$10,000 reimbursement. The City has accepted the \$15,000 permit fee through a cashier's check for \$5,000 and a cashier's check for \$10,000. The Mayor or her designee, on behalf of the City, is hereby authorized to return to Underground Atlanta the cashier's check for \$10,000, thereby reducing the Peach Drop 2007 total permit fee paid to \$5,000.

Section 2. All ordinances and resolutions in conflict herewith are hereby repealed for purposes of this Ordinance only, and only to the extent of said conflict.